

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

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KYM HOLLEY,

*Plaintiff,*

v.

GEORGIA DEPARTMENT OF  
CORRECTIONS and GAIL HOLDER, in  
her individual capacity,

*Defendants.*

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CIVIL ACTION NO.  
5:19-cv-00032-TES

**ORDER TERMINATING AS MOOT DEFENDANTS' MOTION TO DISMISS**

Before the Court is Defendants Georgia Department of Corrections ("GDOC") and Gail Holder's Motion to Dismiss [Doc. 9]. In their motion, Defendants argue that Plaintiff's 42 U.S.C. § 1981 claims are time barred and that Defendant GDOC is immune from § 1981 suits based on the Eleventh Amendment. *See* [Doc. 9, at pp. 4–11]. After Defendants filed this motion, Plaintiff filed an Amended Complaint [Doc. 12] that dropped his § 1981 claims and removed Holder as a defendant. Plaintiff then filed a response to Defendants' Motion to Dismiss arguing that his Amended Complaint mooted the motion both as a matter of law and as a matter of substance. *See Taylor v. Alabama*, 275 F. App'x 836, 838 (11th Cir. 2008) (acknowledging that filing amended complaint moots pending motion to dismiss). *See also* [Doc. 12] (dropping § 1981 claims against Defendants). The Court agrees with Plaintiff. Therefore, the Court **TERMINATES as**

**moot** Defendants' Motion to Dismiss [Doc. 9] and **TERMINATES** Defendant Holder as a party to this action.<sup>1</sup>

**SO ORDERED** this 4th day of April, 2019.

**S/ Tilman E. Self, III**  
**TILMAN E. SELF, III, JUDGE**  
**UNITED STATES DISTRICT COURT**

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<sup>1</sup> Although Defendants would ordinarily have the right to issue a reply prior to the Court ruling on their motion, the Court need not wait for a reply where "the Court may clearly determine from the record before it the relative legal positions of the parties so as to obviate the need for the filing of opposition thereto." LR 7.7, MDGa. As Plaintiff's response essentially concedes the substance of Defendants' Motion to Dismiss, the Court finds it unnecessary to wait for a reply.